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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,352	07/22/2003	Christopher Patrick Abbey	ROC920030219US1	7582

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EXAMINER

DOAN, DUC T

ART UNIT	PAPER NUMBER
2188	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,352

Applicant(s)

ABBEY ET AL.

Examiner

Duc T. Doan

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Claims 1-48 are in the application.

Claims 1-48 are rejected.

Claim Rejection 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 29-48 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 29,37,44 are not limited to tangible embodiments. In view of applicants' disclosure, specification page 10 line 21 to page 11 line 3, the program product is in the form of a signal bearing media whereas the signal bearing media is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., floppy disk, page 11, line 2) and intangible embodiments (e.g., transmission media, page 11, line 3). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

All dependent claims are rejected as having the same deficiencies as the claims they depend from.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28,32-36,40-43,47-48 is rejected under 35 U.S.C. 102 (b) as being anticipated by Zalewski (US Pub 2002/0052914).

As for claim 1, Zalewski describes a computer system comprising: at least one processor (Fig 1: #108); a memory coupled to the at least one processor (Fig 1: #120); a plurality of logical partitions defined on the computer system (Fig 2: #202, #204 partitions 1,2; page 4 paragraphs 42,43); a persistent resource database residing in the memory (Zalewski describes the associations of resources to partitions are stored in non-volatile RAM and the data is booted into memory during subsequence reboots; page 5 paragraph 54; page 13 paragraph 197); and a resource detection mechanism residing in the memory and executed by the at least one processor, the resource detection mechanism detecting a selected resource in the computer system and generating an update to the persistent resource database that indicates which of the plurality of logical partitions owns the selected resource (Zalewski describes detecting of the present of CPUs resource and assigning and marked available in the WRPB for the partition; Zalewski's page 5, paragraph 57).

As for claim 2, Zalewski describes wherein the selected resource is a hardware resource (sharing CPUs, memory, i/o hardware; Zalewski's paragraphs 10-14).

As for claim 3, Zalewski describes wherein the selected resource is a software resource (sharing data based resource such as HWRPB configuration information; Zalewski's page 4, paragraphs 43,44; page 5 paragraph 56).

As for claims 4-6, Zalewski describes wherein the resource detection mechanism determines from the resource database a set of required resources owned by a selected logical partition (claim 4); wherein the resource detection mechanism detects each resource as the resource is initialized (claim 5); wherein the resource detection mechanism starts the selected logical partition when all required resources owned by the selected logical partition have been detected (claim 6). Zalewski describes the resources being detected and assigned into partitions (page 5, paragraph 57); Zalewski describes the partition will run when the sufficient resources are made available (page 5, paragraphs 54,55).

As for claim 7 the claim further recites the resources were detected in previous power on cycles of the apparatus; and a resource detection mechanism residing in the memory and executed by the at least one processor. The claim rejected based on the same rationale as in the rejection of claim 1. Zalewski further describes the association of resource is saved in non-volatile RAM to allow for an automatic configuration of the system during subsequent boots (page 5, paragraphs 54,55).

Claims 8,13,16,22,27,32,40,47 rejected based on the same rationale as in the rejection of claim 2.

Claims 9,14,17,23,28,33,41,48 rejected based on the same rationale as in the rejection of claim 3

As for claims 10-11, the claims recite wherein the resource detection mechanism detects when at least one required resource for the selected logical partition is not powered up, and initiates power up of the at least one required resource that is not powered up (claim 10); wherein the resource detection mechanism initiates power off of a plurality of resources owned by the selected logical partition in response to the selected logical partition being powered off (claim 11); The claim rejected based on the same rationale as in the rejection of claim 1. Zalewski further describes the CPUs logically assigned to each partition can be turned “on and “off” dynamically (Zalewski’s column 2, paragraph 11).

As for claim 12, it is rejected based on the same rationale as in the rejection of claims 7,10,11. Zalewski further describes the “list of resources owned by each of logical partitions” in the form of configuration tree structure (Zalewski’s page 4, paragraphs 54,54).

Claim 15 rejected based on the same rationale as in the rejection of claim 12.

As for claim 18, the claim recites powering off the logically partitioned computer system; powering on the logically partitioned computer system; detecting a resource; determining from the persistent resource database which of the plurality of logical partitions owns the detected resource (page 4 paragraph 44). Zalewski further describes the partitions are independent OS instances, and instances can be reboot and running independently (page 4, paragraph 43)

Claims 19,35 rejected based on the same rationale as in the rejection of claim 5.

Claims 20,36 rejected based on the same rationale as in the rejection of claim 6.

As for claim 21, the claim rejected based on the same rationale as in the rejection of claims 12,4-6.

Claims 24,42 rejected based on the same rationale as in the rejection of claim 10.

Claims 25,43 rejected based on the same rationale as in the rejection of claim 11.

As for claim 26, the claim rejected based on the same rationale as in the rejection of claims 12,4-6,10-11.

Claim 34 rejected based on the same rationale as in the rejection of claim 4.

Conclusion

When responding to the office action, Applicant is advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Doan whose telephone number is 571-272-4171. The examiner can normally be reached on M-F 8:00 AM 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin L. Ellis
Primary Examiner

Kevin L. Ellis